

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHRIS GABLE,

Plaintiff,

COMPLAINT

- against -

THE RECEIVABLE MANAGEMENT
SERVICES CORPORATION,

07 Civ. 11265 (HB)

Defendant.

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Plaintiff CHRIS GABLE (“GABLE”), by his attorneys, McCormick Dunne & Foley, as and for a complaint against the above-captioned defendant, alleges as follows:

JURISDICTION AND VENUE

1. This action arises under the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.*, and specifically 15 U.S.C. § 1692k.

2. Jurisdiction is vested in this Court pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d).

3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2), inasmuch as a substantial part of the events or omissions giving rise to the claim occurred in the Southern District of New York, because that is where GABLE received the written communication at issue.

PARTIES

4. At all times hereinafter mentioned, GABLE was and is a natural person, a resident of 1155 Park Avenue, New York, New York, and a “consumer,” as defined by 15 U.S.C. § 1692a(3).

5. Upon information and belief, at all times hereinafter mentioned, defendant THE RECEIVABLE MANAGEMENT SERVICES CORPORATION (“RMS”) was and is Delaware corporation, authorized to do, and actually doing, business in the City and State of New York.

6. Upon information and belief, at all times hereinafter mentioned, RMS was and is a “debt collector,” as defined by 15 U.S.C. § 1692a(6).

AS AND FOR A FIRST CAUSE OF ACTION

7. On or about November 19, 2007, RMS did mail or have mailed to GABLE a letter concerning an alleged debt of \$231.00 claimed to be owed by GABLE to Chubb & Son Inc. (the “letter”).

8. The letter, a copy of which is annexed as exhibit “A” hereto, constitutes a “communication,” as defined by 15 U.S.C. § 1692a(2), concerning a “debt,” as defined by 15 U.S.C. § 1692a(5).

9. Upon information and belief, RMS had never before communicated (either orally or in writing) with GABLE concerning the alleged debt mentioned in the letter.

10. Accordingly, the letter constitutes an “initial communication,” as that term is employed in 15 U.S.C. § 1692g(a).

11. RMS violated 15 U.S.C. § 1692g(a), because it failed to furnish to GABLE, either in the letter or in a separate written notice sent to GABLE within five (5) days of the letter, the information required to be furnished under 15 U.S.C. § 1692g(a)(3), (4) and (5).

12. In that regard, although the letter recites the requisite validation information, it expressly conditions the information’s applicability on two (2) factors,

the satisfaction of which, from the perspective of the least sophisticated consumer, is not self-evident or even readily apparent.

13. Because of the conditions, the letter fails to convey the validation information clearly and effectively, thereby rendering the least sophisticated consumer uncertain as to his or her rights.

14. Accordingly, RMS is liable to GABLE for all damages actually sustained by him as a result of its conduct, for statutory damages in an amount to be fixed by the Court, and for his costs and a reasonable attorney's fee.

WHEREFORE GABLE demands judgment awarding him:

- (i) the sum of all damages sustained by him as a result of RMS's conduct, as outlined above;
- (ii) statutory damages in the amount of \$1,000.00;
- (iii) costs and a reasonable attorney's fee; and
- (iv) for such other and further relief as to this Court may seem just and proper.

Yours, etc.,

MCCORMICK DUNNE & FOLEY

By: s/
Christopher P. Foley (CF 6079)

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RICHFIELD OH 44286



Receivable Management Services
The global collection company

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CHRIS GABLE
CHRIS GABLE
1155 PARK AVENUE APT 3N
NEW YORK NY 10128

Phone: 888-865-5882

November 19, 2007

RE: Chubb & Son (Collection Unit)
AMT: \$231.00
RMS#: 004371803-013503384
Ref. No: 1289191901

Dear CHRIS GABLE

Recently a notice was sent to you regarding an outstanding amount owed to Chubb & Son Inc., and they have notified us that they have not received your payment.

Therefore, it is important that your check be issued for the full amount owed and sent directly to Chubb & Son Inc.

If you have any coverage questions, please contact your licensed Chubb Agent. If you have any billing questions about this account, you may contact Chubb & Son Inc. directly at (877) 878-1225. When calling, please give reference number located at the top of this letter. However, if you wish to dispute this account, please refer to the notice on the reverse side of this letter.

Receivable Management Services
The global collection company

Refer to RMS # in all communications.

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

IMPORTANT: TO INSURE PROPER CREDIT, PLEASE RETURN THIS LOWER PORTION TOGETHER WITH YOUR REMITTANCE.

CHRIS GABLE
NEW YORK NY 10128

Amt: \$231.00
RMS#: 004371803-013503384
Ref. No: 1289191901

CHUBB & SON (COLLECTION UNIT)
A DIV. OF FEDERAL INS. CO
P.O. BOX 7247-0180
PHILADELPHIA PA 19170-0180

IMPORTANT NOTICE OF YOUR RIGHTS UNDER FEDERAL LAW

If this is the first written notice you have received from this office in regard to the debt referred to on the other side of this letter and this is a consumer debt, then:

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment, if any, and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice RMS will provide you with the name and address of the original creditor, if different from the current creditor.

WE ARE ACTING AS A DEBT COLLECTOR. THIS LETTER IS AN ATTEMPT TO COLLECT THIS DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

We are required under state law to give you the following notices, some of which refer to rights you also have under federal law. This list does not contain a complete list of the rights which consumers or commercial businesses have under state and federal law. Note the following that apply in the specified states:

STATE	APPLICABLE NOTICE
California	The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov .
Colorado (consumers only)	FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE www.ago.state.co.us/CADC/CADCmain.cfm .
Massachusetts	Massachusetts requires us to give the following notice, however, all consumers have these or similar rights under federal law: NOTICE OF IMPORTANT RIGHTS: YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE DEBT COLLECTOR. Receivable Management Services' Office: Please contact us at the address noted on the front of this form. Office Hours: 8:00 a.m. – 5:00 p.m. EST. Monday through Friday.
Minnesota	This collection agency is licensed by the Minnesota Department of Commerce.
Tennessee	This collection agency is licensed by the Collection Service Board of the Department of Commerce and Insurance. Tenn. Code. Ann ss 62-20-111(b).
Washington	The Receivable Management Services' licensed address in Washington is: 2001 6th Avenue, Suite 2200, Seattle, Washington 98121.
Wisconsin	This collection agency is licensed by the Division of Banking, P.O. Box 7876, Madison, Wisconsin 53707.